

IN THE MATTER OF THE APPLICATION
OF RICHARD O. HUFFMAN, JR., ET UX FOR
A SPECIAL HEARING AND ZONING VARIANCE
ON PROPERTY LOCATED ON THE NORTHEAST
SIDE OF WINDING WAY, 1195' NORTH OF
SILVER SPRING ROAD (8650 WINDING WAY)
11TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. 89-7-SPHA

OPINION

This case comes before the Board as an appeal from the decision of the Deputy Zoning Commissioner dated November 15, 1988, denying Petitioners' request for a special hearing to permit shared use of a daycare facility and a variance to permit 18 in lieu of the required 55 parking spaces. The subject property is located in the White Marsh area and is situated at 8650 Winding Way in the Eleventh Election District of Baltimore County. The case was heard this day in its entirety.

Testimony presented by the Appellant indicated that the subject property of 5.5 acres, designated D.R.5.5 is the site of a private residence and a two-building child care center as well as 3.5 acres ± of wooded buffer. It is located at the end of Winding Way, a two-lane County road. Mr. John Schneider, the registered professional engineer who prepared a site plan when the second child care building was proposed, testified that the site included a private loop road for dropping off and picking up children and ample parking spaces for the center's employees. Mr. Schneider was of the opinion that the proposed shared use of the facility would not be detrimental to the health, safety or general welfare of the surrounding community as defined in Baltimore County Zoning Regulations.

Elizabeth Huffman, co-owner of the subject site, testified that she and her husband purchased the property in 1976. The child care facility was opened in 1985; rapid growth in the White Marsh area created increasing business for the

Richard O. Huffman, Jr., et ux
Case No. 89-7-SPHA

2.

facility and a second child care building was completed in 1987. The buildings, are adjoining, air-conditioned, two-story units equipped with automatic sprinkler systems and serviced by all County utilities. Mrs. Huffman further testified that she was approached in 1987 by Pastor Johnnie Brewer of the New Life Baptist Church about sharing the child care facility with his congregation. Subsequently, the Huffmans and the church entered into a rental agreement which allowed the congregation use of the child care facility on Wednesday evenings from 7:00 p.m. to 9:00 p.m. and on Sundays from 9:00 a.m. to noon and from 6:00 p.m. to 8:00 p.m.

Mrs. Huffman's testimony indicated that since October, 1987, the church has never exceeded the site's capacity of 18 parking spaces. Having anticipated such contingencies, Mrs. Huffman sought and received written permission from American Legion Post 30, located at 8666 Silver Lake Drive, for church members to use the Legion Post's parking lot if overflow parking spaces were ever needed. Petitioners presented a signed and notarized letter to that effect addressed to Mrs. Huffman by the Post Commander. Mrs. Huffman further testified that the congregation's use of the facility, including outdoor play equipment, had not prompted any complaints from neighbors.

Pastor Johnnie Brewer of the New Life Baptist Church testified on behalf of the Petitioner. Pastor Brewer presented as evidence a record of church attendance at various services. He testified that his congregants arrive at the facility in passenger cars or vans, usually four or five people per vehicle. Pastor Brewer also testified that a contingency plan including use of vans as shuttle vehicles had been developed in the event that parking at the American Legion site should become necessary. His congregation uses small and large rooms of the child care facility as well as outside play equipment in fair

Richard O. Huffman, Jr., et ux
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3.

weather. Pastor Brewer further indicated that he was not aware of any complaints or traffic problems resulting from his congregation's use of the site. Pastor Brewer concluded his testimony by stating that a number of congregations in the expanding White Marsh area are sharing facilities and that his congregation plans to move to its own facility before the child care site's capacity of 160 persons is reached.

People's Counsel presented Pat Keller, Deputy Planning Director for Baltimore County. Mr. Keller testified that he had studied the County's records of this site and has visited it in person. His concern is for the intensified use of six days and two nights each week as inappropriate for the neighborhood. Mr. Keller also pointed out that the sharing of the facility increased use of a "small, small road" (Winding Way) as the only access to the site. He further testified that the shared use facility, if proposed as an entirely new entity, would require extension of Winding Way to a full County right-of-way.

Appellant then argued that People's Counsel had failed to prove adverse impact to the neighborhood resulting from the shared use at 8650 Winding Way. Both entities exist in the D.R.5.5 zoned area by right.

People's Counsel argued that the shared use adds to the already stressed nature of the site created by the large child care facility. People's Counsel described the shared use as "unusual" and not appropriate.

In reviewing testimony and exhibits in this matter, the Board finds that the shared use of this site, while unusual, is not detrimental to the neighborhood. The large wooded buffer and sparse development of the adjoining area are factors in this opinion as are the restricted hours of operation and small congregation of the New Life Baptist Church. Both the child care facility and the church can exist by right in a D.R.5.5 zone. All County regulations and requirements have

Richard O. Huffman, Jr., et ux
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been met by the Huffmans in both their original and expanded site development. Lacking evidence of traffic problems created by the shared use and without testimony of neighboring residents indicating other problems, the Board finds the shared use appropriate and the existing parking spaces adequate for the use.

The Board also makes note of New Life Baptist Church congregation's plans to develop its own facility in the near future and of shared use facilities operating successfully in this and other Districts of the County.

ORDER

It is therefore this 11th day of September, 1989 by the County Board of Appeals of Baltimore County ORDERED that the Petition for Special Hearing requesting shared use of a daycare facility is GRANTED and the Petition for Variance to permit 18 parking spaces in lieu of the required 55 is also GRANTED.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Lynn B. Moreland
Lynn B. Moreland

John G. Disney
John G. Disney

IN RE: PETITION FOR SPECIAL HEARING
AND VARIANCE - NE/3 Winding Way
1195' N of Silver Spring Road
(8650 Winding Way)
11th Election District
5th Councilmanic District
Richard O. Huffman, Jr., et ux
Petitioners

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 89-7-SPHA
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve an amendment to the site plan previously approved in Case Nos. 82-289-X and 87-329-SPH to permit a church use to share the nursery school/day care facilities, and to determine if there would be a conflict with the restrictions previously imposed in said Cases; and additionally, a variance to permit 18 parking spaces (existing) in lieu of the required 55 spaces, all as more particularly described in Petitioner's Exhibit 1.

The Petitioners, by Mrs. Elizabeth Huffman, appeared, testified, and were represented by Michael P. Tanczyn, Esquire. Also appearing on behalf of the Petition were Pastor Johnnie Brewer of the New Life Baptist Church, Chester J. Weaver, and Barbara Lewis. Mr. & Mrs. Charles Loizeaux and Sharon Bohlen appeared as Protestants.

Testimony indicated that the subject property, known as 8650 Winding Way, consists of 4.74 acres and is zoned D.R. 5.5. Said property is currently used as the residence of Petitioners as well as a day care center operation which was approved as a result of a special exception granted in Case No. 82-289-X. In that case the subject site was approved on September 21, 1982 for the location of a nursery school and/or day care center for a maximum of 60 students, provided 25% of the students were transported by mini-bus, van or carpools averaging at least 4 students per

vehicle. Thereafter, in Re: Petition for Special Hearing, Case No. 87-329-SPH, Petitioners requested an amendment to the site plan previously approved in Case No. 82-289-X to allow an addition to the existing facility and to amend the restrictions in said Order to permit 110 students in lieu of the maximum permitted 60 students. The relief requested was granted on February 13, 1987. Subsequently, in May, 1988 the Petitioners filed the instant Petition. Testimony indicated that Petitioners have rented a portion of the day care facilities to the New Life Baptist Church. Petitioners believe the proposed church use is compatible and can be used in conjunction with the day care center, which is operated Monday through Friday from 7:00 AM to 6:00 PM, as the hours of use will not overlap.

Pastor Brewer testified the New Life Baptist Church, which consisted of 55 members at the time of the hearing, had outgrown their accommodations and had begun renting the day care facility from Petitioners. Pastor Brewer indicated that the facilities on the subject property were ideal for the church's needs and could accommodate its growing membership. He indicated that any parking problems which might result could be alleviated by renting space from the Overlea VFW Post in the area. He indicated that vans would be used to transport people back and forth from the parking lot to the subject property, approximately 1 mile apart.

Mr. Charles Loizeaux testified that he and his wife own adjoining property at 8611 Winding Way. He testified that while they had no objection to the church, per se, they are opposed to the modification requested in the Petition for Special Hearing as the Protestants do not believe the streets in the area can accommodate the additional traffic which may develop. He indicated that the residential character of the neighborhood has already been disrupted due to the amount of traffic created by the day

care center operation and that the expansion of same by granting the relief requested would be contrary to the relief originally granted and detrimental to the health, safety and general welfare of the community.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, Petitioners have failed to prove that the criteria set forth in Section 502.1 would not be adversely affected by the modification requested herein. If the relief requested in the Petitions for Special Hearing and Variance are granted, it would be in conflict with the restrictions originally imposed when Petitioners elected to request a special exception for use of the subject property as a day care center. Further, Petitioners have failed to prove the relief requested, if granted, would not be detrimental to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the Petitions for Special Hearing and Variance should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 15th day of November, 1988 that the Petition for Special Hearing to approve an amendment to the site plan previously approved in Case Nos. 82-289-X and 87-329-SPH to permit a church use to share the nursery school/day care facilities, and to determine if there would be a conflict with the restriction previously imposed in said Cases; and additionally, the Petition for Variance to permit 18 parking spaces (existing) in lieu of the required 55 spaces, in accordance with Petitioner's Exhibit 1, be and are hereby DENIED.

Ann M. NASH/BOHLEN
Ann M. NASH/BOHLEN
Deputy Zoning Commissioner
For Baltimore County

ANN:bjg

ORDER RECEIVED FOR FILING
Date 11/15/88
By John G. Disney

ORDER RECEIVED FOR FILING
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By John G. Disney

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By John G. Disney

ORDER RECEIVED FOR FILING
Date 11/15/88
By John G. Disney

CERTIFICATE OF PUBLICATION

Office of

THE AVENUE NEWS

442 Eastern Blvd.
Baltimore, Md. 21221

June 23, 1988

THIS IS TO CERTIFY, that the annexed advertisement of
PUB 01157 REQ REQ RE 5075 TO ADVERTISE PETITION FOR
SPECIAL HEARING AND ZONING VARIANCE FOR CASE NO. 52941
RE: Mrs. Jane H. Loizeaux, 8611 Winding Way, Perry Hall, Maryland 21128, is being published in the 5th Councilmanic District of Baltimore County, Maryland, on Friday, July 15, 1988 at 10:00 AM.

was inserted in The Avenue News a weekly newspaper
published in Baltimore County, Maryland once a week for one
successive weeks) before the 24th day of June 1988;
that is to say, the same was inserted in the issues of 6/23/1988

The Avenue Inc.

per publisher

By: [Signature]

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11th Date of Posting: 1/16/88
Posted for: [Signature]
Petitioner: [Signature]
Location of property: 8611 Winding Way, Perry Hall, Maryland 21128
Location of Sign: [Signature]
Remarks: [Signature]
Posted by: [Signature]
Number of Signs: 1



COUNTY COUNCIL OF BALTIMORE COUNTY
FIFTH DISTRICT OFFICE
809 EASTERN BOULEVARD, ROOM 201
ESSEX, MARYLAND 21221

February 12, 1988

Mrs. Jane Loizeaux
8611 Winding Way
Perry Hall, Maryland 21128

Dear Mrs. Loizeaux:

Attached please find the response from Chief Behan regarding your complaint of speeding cars on Winding Way.

Hopely the positive steps taken by Traffic Engineering and the Police Department will be helpful.

If I can of further assistance, please feel free to call my office.

[Signature]
Norman W. Lauenstein
Councilman, Fifth District

Enclosure

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333

J. Robert Haines
Zoning Commissioner

Date: June 29, 1988



Dennis F. Rasmussen
County Executive

Mr. & Mrs. Richard O. Huffman, Jr.
8650 Winding Way
Perry Hall, Maryland 21118

Re: Petition for Special Hearing and Zoning Variance
CASE NUMBER: 89-7-SPM
NE/S Winding Way, 1195' N of Silver Spring Road
(8650 Winding Way)
11th Election District - 5th Councilmanic
Petitioner(s): Richard O. Huffman, Jr., et ux
HEARING SCHEDULED: FRIDAY, JULY 15, 1988 at 10:00 a.m.

Dear Mr. & Mrs. Huffman:

Please be advised that \$127.57 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED
ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 52941

and post set(s), there
for each set not

DATE: 6/29/88 ACCOUNT: [Signature] OUTS:
AMOUNT: \$127.57
RECEIVED FROM: [Signature]
FOR: [Signature]
VALIDATION OR SIGNATURE OF CASHIER: [Signature]

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: The Honorable Norman Lauenstein
Councilman, District 5
FROM: Chief, Cornelius J. Behan
Chief of Police
SUBJECT: TD 88-0019

An investigation was conducted by Officer Patrick Rooney #2377 of the Central Traffic Division in reference to the complaint made by Mrs. Jane Loizeaux regarding speeding problems on Winding Way.

Officer Rooney states that Mr. John Zuk of the Baltimore County Department of Traffic Engineering was contacted. Mr. Zuk is aware of Mrs. Loizeaux's complaint and has already surveyed the area to have the speed limit posted. The Department of Traffic Engineering is going to have Winding Way posted with a "Dead-End" road sign, which should control some of the traffic that may be wandering through. More parking regulatory signs are going to be posted along Silver Spring Road in the area of Winding Way in order to maintain better visibility at this intersection. Mr. Zuk notified the White Marsh Child Care Center in reference to the posting so that proper notification can be given to their clients. Mr. Zuk informed Officer Rooney that a STOP sign was not needed or appropriate in this case because of there being no traffic East of the intersection. Mrs. Loizeaux was advised that Baltimore County and the State of Maryland do not recognize any posting of a "roadway" below 25 mph as recommended by the Department of Transportation.

Officer Rooney conducted a speed survey in the 6600 block of Winding Way. The survey was conducted on January 19, 1988 between 7:20 a.m. and 8:50 a.m. Twenty-one vehicles were below the 20 mph minimum readable speed of the Ruston KR-11 Stat-Pak. Twenty-one vehicles exceeded 20 mph, four vehicles exceeded 22 mph, six vehicles exceeded 25 mph, one vehicle exceeded 26 mph and one vehicle exceeded 30 mph.

Mrs. Loizeaux stated to Officer Rooney that a drop in the speed of the vehicles has been noticed since the management of the Child Care Center was advised of the speed problem.

We will continue to monitor this area and take appropriate enforcement action. If you have any further questions regarding this investigation, you may contact Officer Rooney at 494-2396.

Sincerely,
[Signature]
Cornelius J. Behan
Chief of Police

CJB:md

Baltimore County, Maryland
Executive Office
Courthouse Mezzanine
Towson, Maryland 21204
494-2450
494-3729 (TTY)

June 17, 1988



Dennis F. Rasmussen
County Executive

Mrs. Jane H. Loizeaux
8611 Winding Way
Perry Hall, Maryland 21128

RE: White Marsh Day Care Center
New Life Baptist Church
NE/S Winding Way, 1195' N of Silver Spring Road
(8650 Winding Way)
11th Election District; 5th Councilmanic District

Dear Mrs. Loizeaux:

I am in receipt of your correspondence dated May 18, 1988 on the above-referenced matter and have discussed the issues raised in your letter with J. Robert Haines, Baltimore County Zoning Commissioner.

Mr. Haines has indicated to me that the New Life Baptist Church, which has been operating from the White Marsh Day Care Center located on the subject property, has filed a Petition for Special Hearing and a Petition for Zoning Variance requesting permission to continue to operate from this location. A public hearing on the subject matter is scheduled for Friday, July 15, 1988 at 10:00 AM. You are welcome to attend this hearing and will be given an opportunity to voice your concerns. Enclosed for your reference is a copy of the Notice of Hearing.

Thank you for your interest in this matter and for sharing your concerns with me.

Very truly yours,

DENNIS F. RASMUSSEN
County Executive

DFR:bjs
Letter prepared by: J. Robert Haines
cc: J. Robert Haines
Zoning Commissioner

bcc: Robyn Clark, Zoning Inspector

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333

J. Robert Haines
Zoning Commissioner

June 1, 1988

NOTICE OF HEARING



Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning and Regulations of Baltimore County will hold a public hearing on the Petition identified herein in Room 111 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing and Zoning Variance

CASE NUMBER: 89-7-SPM
NE/S Winding Way, 1195' N Silver Spring Road
(8650 Winding Way)
11th Election District - 5th Councilmanic
Petitioner(s): Richard O. Huffman, Jr., et ux
HEARING SCHEDULED: FRIDAY, JULY 15, 1988 at 10:00 a.m.

SPECIAL HEARING: An amendment to the site plan and previous zoning cases #82-289-X and #87-329-SM to permit a church use to share the nursery school/day care facilities. Also to determine if there would be a conflict with the restrictions previously imposed, and if there would be a conflict, that the restrictions be amended accordingly. Variance to permit 18 parking spaces (existing) in lieu of the total required 55 spaces.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Mrs. & Mrs. Richard O. Huffman, Jr.
Michael P. Tanczyn, Esq.
Rev. Johnnie W. Brewer
File
Mr. Jane Loizeaux

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: James Dyer
Zoning Supervisor
FROM: James Thompson
Zoning Enforcement Coordinator
SUBJECT: Item No. 362 (if known)
Petitioner: (if known)

VIOLATION CASE # C-88824

LOCATION OF VIOLATION 8650 Winding Way
DEFENDANT [Signature] ADDRESS [Signature]

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME: James Loizeaux ADDRESS: 8611 Winding Way
81128

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

PETITION FOR SPECIAL HEARING * BEFORE THE ZONING COMMISSIONER
FOR USE OF DAY CARE CENTER * FOR BALTIMORE COUNTY
AND NURSERY SCHOOL AS A *
CHURCH AS AN AUXILIARY USE * Case No. 89-7

PARKING REQUIRED

Section 409.6.A.1. - Residential 2 per dwelling unit
1 family detached
Section 409.6.A.4. - Church 1 per 4 seats
Group Child Care
Nursery School 1 per employee on largest shift
but in no case less than 2

Section 409.6.B.3. - Shared Parking Adjustment

	DAYTIME (6 AM- 6 PM)	EVENING (6 PM- MIDNIGHT)	DAYTIME (6 AM- 6 PM)	EVENING (6 PM- MIDNIGHT)	NIGHTTIME (MIDNIGHT- 6 AM)
Residential (100%)	2	2	2	2	2
Church (100%)	0	*16 Present 40 Maximum	*16 Present 40 Maximum	*16 Present 40 Maximum	0
Nursery School (100%)	13	0	0	0	0
	15	18-42	18-42	18-42	2

* New Life Baptist Church present congregation numbers 55
Worship Hours: Sunday 9:30 AM Sunday School
10:30 AM Service
6:30 PM Bible Study & Service
Wednesday 7:30 PM - 8:30 PM Service

I certify that the above figures are accurate for the Church.

[Signature]
PASTOR JOHNIE BREWER

I certify that the above figures are accurate for the residence and nursery school.

[Signature]
PETITIONER'S
EXHIBIT

PROTESTANT
EXHIBIT

Law Offices
Michael P. Tanczyn, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(301) 296-8823
(301) 296-8824

November 21, 1988

Ann M. Nastarowicz
Deputy Zoning Commissioner
111 West Chesapeake Avenue
Towson, MD 21204

Re: Petition for Special Hearing & Variance
NE/S Winding Way 1195' N of Silver
Spring Road (8650 Winding Way)
11th Election District
5th Councilmanic District
Case Number 89-7-SPHA

Dear Ms. Nastarowicz:

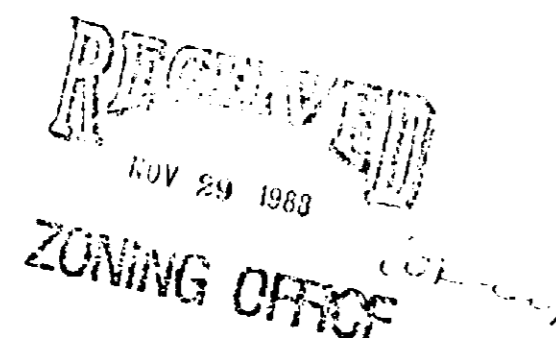
Please enter the Appeal by Richard O. Huffman, Jr. and Elizabeth S. Huffman of 8650 Winding Way, Perry Hall, Maryland, 21128, and Pastor Johnnie W. Brewer, New Life Baptist Church, P. O. Box 54, White Marsh, Maryland, 21162, from your Decision dated November 15, 1988.

Very truly yours,

Michael P. Tanczyn

MPT/ed

cc: Baltimore County People's Counsel
Mr. and Mrs. Richard O. Huffman, Jr.
Pastor Johnnie W. Brewer



1/27/89 - Following notified of hearing set for Thursday, May 18, 1989 at 10 a.m.

M. Tanczyn, Esq.
M/M R. Huffman, Jr.
Pastor J. Brewer
C. Weaver
S. Lewis
M/M C. Loizeaux
Ms. S. Bohlen
PC
Fields
Keller
Haines
Nastarowicz
Dyer
Docket Clk
Jablon

5/17/89 - Letter from Counsel for Appellants/Petitioners requesting PP due to illness (Tanczyn representing Huffman; is ill and under doctor's care).

5/18/89 - POSTPONED on the record in open hearing and REASSIGNED to Tuesday, August 15, 1989 at 10:00 a.m. Above were notified by Notice of PP and reassignment to 8/15/89.

Law Offices
Michael P. Tanczyn, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(301) 296-8823 (301) 296-8824
FAX (301) 296-8827

May 17, 1989

Baltimore County Board of Appeals
111 West Chesapeake Avenue, Room 314
Towson, MD 21204

Re Richard O. Huffman, Jr., et ux
Case Number 89-7-SPHA

Gentlemen

The purpose of this letter is to request a postponement of the above case, presently scheduled for hearing on Thursday, May 18, 1989 at 10 a.m. because I have been taken ill and will be unable to appear on behalf of the Appellants on the scheduled date and time. I have a 104° fever and have been prescribed penicillin for a strep infection and my doctor has advised that, until the penicillin takes hold, I should not go out.

If this postponement is granted, please advise my office by telephone as soon as possible and we will attempt to contact the Protestants by telephone, if you wish, to advise them of the postponement.

Your anticipated cooperation with this request is appreciated.

Very truly yours,

Michael P. Tanczyn
Michael P. Tanczyn

MPT/ed

cc Mr. and Mrs. Richard O. Huffman, Jr.
Pastor Johnnie Brewer
Baltimore County People's Counsel

Dictated but not read

65-6 NOV 17 1988
COMMUNICATIONS SECTION



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 424-1160 (301) 424-1160

HEARING ROOM - Room 301, County Office Building
January 27, 1989

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-7-SPHA

RICHARD O. HUFFMAN, JR., ET UX

NE/Side Winding Way, 1195' North of Silver Spring Road (8650 Winding Way)

11th Election District
5th Councilmanic District

SPH - to permit church use to share day care facility (amendment to previously approved site plan)
VAR - to permit 18 parking spaces in lieu of required 55 spaces

11/15/88 - Z.C.'s Order that the Petition for Special Hearing and the Petition for Variance are DENIED.

ASSIGNED FOR:

THURSDAY, MAY 18, 1989 at 10:00 a.m.

cc: Michael P. Tanczyn, Esquire Counsel for Appellants /Petitioners

Mr. & Mrs. Richard O. Huffman, Jr. Appellants /Petitioners

Pastor Johnnie Brewer

Mr. Chester J. Weaver

Ms. Barbara Lewis

Mr. & Mrs. Charles Loizeaux - (amendment to previously approved site plan)

Ms. Sharon Bohlen - (amendment to previously approved site plan)

People's Counsel for Baltimore County

P. David Fields

Pat Keller

J. Robert Haines

Ann M. Nastarowicz

James E. Dyer

Docket Clerk - Zoning

Arnold Jablon, County Attorney

Kathleen C. Weidenhammer
Administrative Secretary



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 424-1160

HEARING ROOM - Room 301
County Office Building

May 18, 1989

NOTICE OF POSTPONEMENT AND REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-7-SPHA

RICHARD O. HUFFMAN, JR., ET UX

NE/S Winding Way, 1195' N of Silver Spring Rd (8650 Winding Way)

11th Election District
5th Councilmanic District

SPH - to permit church use to share day care facility (amendment to previously approved site plan)

VAR - to permit 18 parking spaces in lieu of 55

11/15/88 - Z.C.'s Order that Petition for Special Hearing and Petition for Variance are DENIED.

which had been scheduled for hearing on May 18, 1989 has been POSTPONED on the record at the request of Counsel for Appellant /Petitioner and has been

REASSIGNED FOR:

TUESDAY, AUGUST 15, 1989 at 10:00 a.m.

cc: Michael P. Tanczyn, Esquire Counsel for Appellants /Petitioners

Mr. & Mrs. Richard O. Huffman

Appellants /Petitioners

Pastor Johnnie Brewer

Mr. Chester J. Weaver

Ms. Barbara Lewis

Mr. & Mrs. Charles Loizeaux

Ms. Sharon Bohlen

People's Counsel for Baltimore County

P. David Fields

Pat Keller

J. Robert Haines

Ann M. Nastarowicz

James E. Dyer

Docket Clerk - Zoning

Arnold Jablon, County Attorney

Kathleen C. Weidenhammer
Administrative Secretary

IN RE: PETITION SPECIAL HEARING * BEFORE THE
NE/S of Winding Way, 1,195' * ZONING COMMISSIONER
from the centerline of Silver *
Spring Road (8650 Winding *
Way) - 11th Election District * OF BALTIMORE COUNTY
Richard O. Huffman, Jr., * Case No. 89-329-SPH
et ux, *
Petitioners *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request an amendment to the site plan approved in Case No. 82-289-X to allow an addition to the existing building and to amend Restriction 1 of the Order in that case to permit 110 students in lieu of the permitted 60 students, as more particularly described on Petitioners' Exhibit 1.

The Petitioners appeared and testified and were represented by Counsel. John Schneider, a registered engineer, and Catherine Drayton, Baltimore County Department of Health, appeared and testified on behalf of the Petitioners. There were no Protestants.

Testimony indicated that the subject 4.74-acre property, zoned D.R.5.5 and located on Winding Way adjacent to I-95, was granted a special exception for a nursery school and/or day care center with a maximum of 60 students in Case No. 82-289-X. The Petitioners wish to expand the facility to accommodate 110 students and have introduced an amended site plan, Petitioners' Exhibit 1, showing a 70' x 40' addition to the existing day care center building. The Petitioners presented a list of over 100 people waiting to enroll. There is no question as to the need for day care. There is also no question that the licensing authorities of Baltimore County, by Mrs. Drayton, believe that the Petitioners operate an excellent facility. It is also clear

that the property itself is large enough to handle the increase in students and that the traffic generated by the additional use would not be a problem on the feeder streets. See correspondence from the Department of Traffic Engineering to the Zoning Commissioner, dated January 8, 1987, indicating that it has "...no comment..."

The Petitioners also wish to extend the existing driveway an additional 12 feet in order to create a traffic loop on the site, which would parallel the sewer line placed through the buffer area required by Case No. 82-289-X. Inasmuch as the special exception granted therein falls within Section 1B01.1.C.11, Baltimore County Zoning Regulations (BCZR), which exempts any zoning petition prepared and filed prior to June 30, 1982 from the residential transition area (RTA) requirements, the placement of the additional 12 feet of driveway would not violate any zoning requirements.

The Petitioners seek relief pursuant to Section 500.7, BCZR.

After due consideration of the evidence and testimony presented, it is found that the amendments requested would not adversely affect the health, safety, and general welfare of the community.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the requested relief should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 13th day of February, 1987, that the amendment to the site plan approved in Case No. 82-289-X to allow an addition to the existing building and to amend Restriction 1 of the Order in that case to permit 110 students in lieu of the permitted 60 students be approved and, as such, the Petition for Special Hearing is hereby GRANTED, from and after the date of this Order, subject to the following:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

Zoning Commissioner of
Baltimore County

AJ/srl

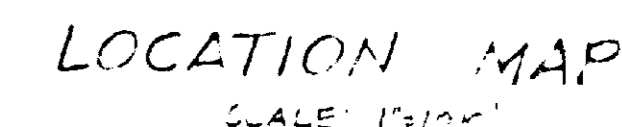
cc: Michael P. Tanczyn, Esquire

People's Counsel

ORDER RECEIVED JAN 13 1987
Date January 13, 1987
By [Signature]

1. A MAXIMUM OF 20 STUDENTS (PROPOSED ADULTON) SHALL BE PERMITTED IF 25% OF THE TOTAL NUMBER ARE TRANSPORTED BY MINIBUS, VAN OR CAR POOLS AVERAGING AT LEAST FOUR STUDENTS PER VEHICLE. OTHERWISE, ONLY 10 STUDENTS SHALL BE PERMITTED. THE RECORDS OF TRANSPORTATION ARRANGEMENTS SHALL BE AVAILABLE TO THE ZONING OFFICE.
2. THE OWNER, MANAGER OR DIRECTOR SHALL RESIDE ON THE SITE.
3. COMPLIANCE WITH SECTIONS 180.1, 18.1, 6.3, (b) AND 180.1, 6.1 OF THE BALTIMORE COUNTY ZONING REGULATIONS.
4. COMPLIANCE WITH THE REQUIREMENTS OF THE BALTIMORE COUNTY FIRE DEPARTMENT AND HEALTH DEPARTMENT.
5. COMPLIANCE WITH THE BALTIMORE COUNTY FIRE DEPARTMENT THAT A AUTOMATIC SPRINKLER SYSTEM A COMPLIANCE NFPA 13C WILL BE INSTALLED.
6. WINDING WAY SHALL BE AN 8 FOOT MINIMUM PAVED ROWLY FROM THE END OF THE CURRENT COUNTY MAINTENANCE TO THE PROPERTY LINE WITH A GRADUALITY THE VELOCITY TERMINATION AT THE END.
7. THE SITE PLAN SHALL INDICATE THE LOCATION OF THE SITE.
8. APPROVAL OF THE AFOREMENTIONED SITE PLAN BY THE DEPARTMENT OF PUBLIC WORKS AND THE OFFICE OF PLANNING AND ZONING, INCLUDING LANDSCAPING AND IMPROVEMENTS, PREPARED FOR APPROVAL BY THE DISTRICT PLANNING AND ZONING DIVISION.

ON SITE NATURAL VEGETATION IN BUFFER AREAS, AS SPECIFIED HEREON, WILL BE REVIEWED BY THE PLANNING BOARD, THE ZONING COMMISSIONER OR THE BOARD OF APPEALS, AS THE CASE MAY BE, DURING THE MONTH OF JANUARY, FEBRUARY, AND THEN COMPLETION OF IMPROVEMENTS, SO AS TO DETERMINE COMPLIANCE WITH THE DISTRICT COUNTY ZONING REGULATIONS, SECTIONS 1803.1.P.1, U.S. (U) AND 1803.1.E.1, U.S. IF ON-SITE NATURAL VEGETATION IS DETERMINED NOT TO COMPLY WITH THE AFORESAID ZONING REGULATIONS, OWNER'S AGREE TO CONFORM WITH SECTIONS IN THE PLANNING REQUIRED IN THE BUFFER AREAS SO AS TO MEET SAID REGULATIONS, WITH A 30-DAY NOTICE FOLLOWING WRITTEN NOTIFICATION, BUT NOT LATER THAN THE PLANTING SEASON NEXT FOLLOWING COMPLETION OF THE IMPROVEMENTS OR OCCUPANCY, WHICHEVER SHALL FIRST OCCUR. IF ON-SITE NATURAL VEGETATION IS DETERMINED TO BE IN COMPLIANCE WITH THE AFORESAID ZONING REGULATIONS THEN THE OWNER'S AGREE TO MAINTAIN THE SITE PLAN TO SHOW THE LOCATION OF THIS AREA OF ALL EVERGREENS AND TREES OVER TWO INCHES IN DIAMETER WITHIN SIXTY DAYS.

[illegible]

1. 1st FLOOR W/ 20 PRKING SPACES (24TH FLOOR, 7 TO 12 TO 6000)
2. 2ND FLOOR CANTON W/ 20 PRKING SPACES (24TH FLOOR, 7 TO 12 TO 6000)
3. 3RD FLOOR CANTON W/ 20 PRKING SPACES (24TH FLOOR, 7 TO 12 TO 6000)
4. 4TH FLOOR CANTON W/ 20 PRKING SPACES (24TH FLOOR, 7 TO 12 TO 6000)
5. 5TH FLOOR CANTON W/ 20 PRKING SPACES (24TH FLOOR, 7 TO 12 TO 6000)

ELECTION DISTRICT 11 BALTIMORE COUNTY

Peterson I

[illegible]

A MAXIMUM OF 60 STUDENTS (PROPOSED ADOPTION) SHALL BE PERMITTED
IF 25% OF THE TOTAL NUMBER ARE TRANSPORTED BY MINIBUS, VAN, OR CAR
POOLS AVERAGING AT LEAST FOUR STUDENTS PER VEHICLE; OTHERWISE, ONLY
40 STUDENTS SHALL BE PERMITTED. THE RECORDS OF TRANSPORTATION
ARRANGEMENTS SHALL BE AVAILABLE TO THE ZONING OFFICE.
THE OWNER, MANAGER, OR DIRECTOR SHALL RESIDE ON THE SITE.
COMPLIANCE WITH SECTIONS 180.12.0.3, (b) AND 180.1.2.B.1.6.5 OF THE
BALTIMORE COUNTY ZONING REGULATIONS.
COMPLIANCE WITH THE REQUIREMENTS OF THE BALTIMORE COUNTY FIRE
DEPARTMENT AND HEALTH DEPARTMENT.
COMPLIANCE WITH THE BALTIMORE COUNTY FIRE DEPARTMENT THAT A
AUTOMATIC SPRINKLER SYSTEM AND ALARMS NFPA 13D WILL BE INSTALLED.
THE WAY SHALL BE AN 8 FOOT MINIMUM FLARE ROWWAY FROM THE END OF THE
CURRENT COUNTY MAINTENANCE TO THE PROPERTY LINE WITH A
STANDARD TIME ROADWAY TERMINATED AT THE END
THE SITE PLAN SHALL INDICATE THE LOCATIONS OF THE SITE.
APPROVAL OF THE AGREEMENTED SITE PLAN BY THE
DEPARTMENT OF PUBLIC WORKS AND THE OFFICE OF PLANNING
AND ZONING, INCLUDING LANDSCAPING AND
SCHEDULING REQUIRED FOR APPROVAL BY THE
CURRENT PLANNING AND ZONING COMMISSION.

ON SITE NATURAL VEGETATION IN BUFFER AREAS, AS SPECIFIED HEREON, WILL BE REVIEWED BY THE PLANNING BOARD, THE ZONING COMMISSIONER, OR THE BOARD OF APPEALS, AS THE CASE MAY BE, DURING THE MONTHS OF JANUARY, FEBRUARY, AND UPON COMPLETION OF IMPROVEMENTS, SO AS TO DETERMINE COMPLIANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS, SECTIONS 1801.1.B, 1.B.3, (b) AND 1801.1.B.1: 1.5. IF ON SITE NATURAL VEGETATION IS DETERMINED NOT TO COMPLY WITH THE AFOREMENTIONED ZONING REGULATIONS, OWNERS AGREE TO CONFORM WITH SECTIONS BY THE PLANTING REQUIRED IN THE BUFFER AREAS SO AS TO MEET SAID REGULATIONS WITH A REASONABLE TIME FOLLOWING WRITTEN NOTIFICATION, BUT NOT LATER THAN THE PLANTING SEASON NEXT FOLLOWING COMPLETION OF THE IMPROVEMENTS OR OCCUPANCY, WHICHEVER SHALL FIRST OCCUR. IF ON SITE NATURAL VEGETATION IS DETERMINED TO BE IN COMPLIANCE WITH THE AFOREMENTIONED ZONING REGULATIONS THEN THE OWNERS AGREE TO REVISE THE SITE PLAN TO SHOW THE LOCATION WITH THIS AREA OF ALL EVERGREENS AND TREES OVER TWO INCHES IN DIAMETER, WITHIN SIXTY DAYS.



1. AREA OF SITE 4.74 ACRES ±
2. EXISTING ZONING DR 5.5
3. EXISTING USE RESIDENTIAL & DAY CARE
4. PROPOSED ZONING DR 5.5 WITH SPECIAL EX-
CEPTION TO ALLOW NURSERY
SCHOOL ADDITION. SECTION
1001.1.6.11 OF THE BALTO
CO. ZONING REGULATIONS.
5. PROPOSED USE NURSERY SCHOOL AND
CHURCH AS AUR. USE
6. AREA OF BUILDING ADDITION 2800 SQ. FT. (10' x 40')
7. NUMBER OF PARKING SPACES REQUIRED
FOR CHURCH 160 @ 1/4 SEATS 40.
8. NUMBER OF PARKING SPACES REQUIRED
FOR RESIDENCE 2
9. NUMBER OF SPACES FOR NURSERY 13 EMPLOYEES 13
10. TOTAL PARKING SPACES REQUIRED 55
11. TOTAL PARKING SPACES PROVIDED 18

1. BUILDING WILL BE IN USE MONDAY THRU FRIDAY 7:00 AM TO 6:00 PM.
2. TRANSPORTATION WILL BE BY MINIBUS OR FAMILY PICK-UP.
3. DAY CARE CENTER CONTAINS 6 CLASSROOMS, 1 OFFICE, 1 KITCHEN, 4 BATHS, AND STORAGE ROOMS. (TOTAL WITH EXPANSION)
4. STAFF WILL BE 1 DIRECTOR, 6 TEACHERS AND 6 AIDS.
5. TOTAL NUMBER OF DAY CARE CHILDREN OR STUDENTS TO BE 110.

MR. & MRS. RICHARD HUFFMAN
8650 WINDING WAY
PERRY HALL, MARYLAND 21128

ELECTION DISTRICT NO. 1 BALTIMORE CO. MD.

PETITION **EXHIBIT**

PLAT PREPARED BY: JOHN L. SCHNEIDER, P.E.
100 N. ROLLING ROAD
CATONSVILLE, MD. 21228

SCALE	1"=50'	APPROVED BY	TRAINING TGH
DATE	3-10-88		REVISED 4-18-88

DRAWING NUMBER
26502

BASE INFORMATION SHOWN HEREON COMPILED
FROM PLAN PREPARED BY EVANS, HANCOCK &
HOLDEFER, INC.